

Independent claim 107 recites "said guard having a flat portion between at least some of said spine engaging portions for preventing over-penetration of said spine engaging portions into the spine." Independent claim 139 recites "said guard having openings in said sides." Both of claims 107 and 139 recite "a guard having a passage for providing guided access to the disc space and the adjacent vertebral bodies." MacKenzie '730 discloses a trephine. MacKenzie '730 does not disclose an apparatus including a guard as defined by claims 107-171.

Applicant's claimed apparatus including "said guard having a flat portion" and "said guard having openings in said sides" of claims 107 and 139, respectively are shown, for example, in Fig. 5 and described at least at page 35, lines 5-23 of Applicant's specification.

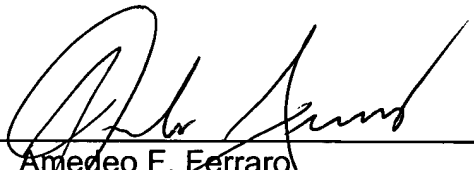
In view of the foregoing amendments and remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

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By: 
Amedeo F. Ferraro
Registration No. 37,129
Attorney for Applicant(s)

14500 Avion Parkway, Suite 300
Chantilly, VA 20151-1101
Telephone: (703) 679-9300
Facsimile: (703) 679-9303